

OS REGISTRY

25 APR 1988

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12 MAY 1988

20 April 1988
OCA 88-1258

MEMORANDUM FOR: See Distribution

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Office of Congressional Affairs

SUBJECT: House Intelligence Authorization Bill

1. The House version of the FY 1989 Intelligence Authorization bill (H.R. 4387) has been marked up by the House Intelligence Committee. A copy of the bill is attached.

2. Highlights of this year's bill include the following:

--An amendment added by Representative Richardson that will require NSA and CIA to submit to the intelligence oversight committees an equal employment opportunity plan, and an annual report on progress made toward implementing goals contained in that plan;

--New authority for NSA to use non-appropriated funds to assist foreign countries in cryptologic support;

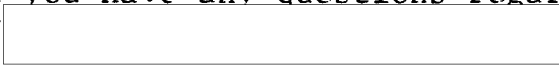
--Enhanced monetary benefits for FBI agents serving in the New York Field Division;

--The creation of a new Assistant Secretary of Defense for Intelligence at DoD;

--One-time grant of authority to the DCI to provide monetary relief to a former employee who unfairly had his career with the Agency adversely affected as result of allegations concerning loyalty to the U.S.

3. The House Intelligence Committee did not include in the bill our proposal to allow newly designated CIARDS participants the opportunity to elect to join the Federal Employees' Retirement System. Including the proposal in the bill would have required the concurrence of the the House Post Office and Civil Service Committee, and that Committee was reluctant to concur in the proposal because it could establish a precedent for other agencies to ask for similar relief. The proposal

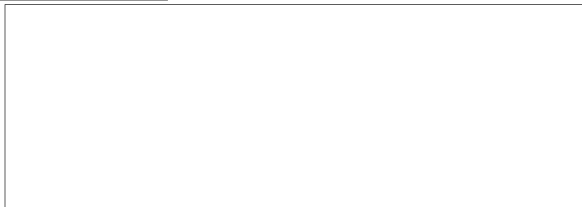
will be included in the Senate version of the Intelligence Authorization bill. Because the House Intelligence Committee staff is not opposed to the provision, we are hopeful that the provision will be adopted in a House/Senate Conference on the Authorization bill.

4. If you have any questions regarding the bill, please call me or 

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Attachment as
stated



20 April 1988
OCA 88-6058

SUBJECT: FY '89 Intelligence Authorization Bill

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100TH CONGRESS
2D SESSION

H. R. 4387

To authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 1988

Mr. STOKES introduced the following bill; which was referred to the Permanent Select Committee on Intelligence

A BILL

To authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Intelligence Authoriza-
4 tion Act, Fiscal Year 1989".

1 **TITLE I—INTELLIGENCE ACTIVITIES**2 **AUTHORIZATION OF APPROPRIATIONS**

3 SEC. 101. (a) Funds are hereby authorized to be appro-
4 priated for fiscal year 1989 for the conduct of the intelligence
5 and intelligence-related activities of the following elements of
6 the United States Government:

7 (1) The Central Intelligence Agency.

8 (2) The Department of Defense.

9 (3) The Defense Intelligence Agency.

10 (4) The National Security Agency.

11 (5) The Department of the Army, the Department
12 of the Navy, and the Department of the Air Force.

13 (6) The Department of State.

14 (7) The Department of the Treasury.

15 (8) The Department of Energy.

16 (9) The Federal Bureau of Investigation.

17 (10) The Drug Enforcement Administration.

18 (b) None of the funds authorized to be appropriated by
19 this Act may be used to procure more than three Guardrail
20 RC-12K aircraft and sensor suites until the Department of
21 the Army has submitted to the Permanent Select Committee
22 on Intelligence and the Committee on Armed Services of the
23 House of Representatives and to the Committee on Armed
24 Services of the Senate a report detailing the long-range plans
25 and budgetary commitments to meet the future requirements

1 for tactical airborne reconnaissance in support of the United
2 States Army. The report should include, but not be limited
3 to, the contribution of remotely piloted vehicles and other
4 reconnaissance assets.

5 (c)(1) None of the funds authorized to be appropriated by
6 this Act for the foreign counterintelligence activities for the
7 Federal Bureau of Investigation may be used for any other
8 purpose.

9 (2) Of the funds described in paragraph (1) not less than
10 the amount listed for the "FBI Dedicated Technical Pro-
11 gram" in the Schedule of Authorization described in section
12 102(a) shall be obligated for the development and procure-
13 ment of counterintelligence technical equipment.

14 (3) Of the funds authorized to be appropriated in this
15 Act for the Defense Intelligence Agency, the Secretary of
16 Defense shall transfer not to exceed \$15,100,000 to appro-
17 priations for the foreign counterintelligence activities of the
18 Federal Bureau of Investigation.

19 (d) The expiration date provided for in section 803(b) of
20 the Intelligence Authorization Act for Fiscal Year 1986
21 (Public Law 99-169) shall be extended until one year after
22 the submission of the report required by section 803(a) of
23 such Act.

24 CLASSIFIED SCHEDULE OF AUTHORIZATIONS

25 SEC. 102. (a) The amounts authorized to be appropri-
26 ated under section 101, and the authorized personnel ceilings

1 as of September 30, 1989, for the conduct of the intelligence
2 and intelligence-related activities of the elements listed in
3 such section, are those specified in the classified Schedule of
4 Authorizations prepared by the Permanent Select Committee
5 on Intelligence to accompany H.R. 4387 of the One Hun-
6 dredth Congress.

7 (b) The Schedule of Authorizations described in subsec-
8 tion (a) shall be made available to the Committee on Appro-
9 priations of the Senate and House of Representatives and to
10 the President. The President shall provide for suitable distri-
11 bution of the schedule, or of appropriate portions of the
12 schedule, within the executive branch.

13 (c)(1) In computing the number of nonheadquarters per-
14 sonnel required to be reduced under subsection (b)(2)(A) of
15 section 602 of Public Law 99-433 (100 Stat. 1065), the Sec-
16 retary of Defense shall exclude personnel of the Defense In-
17 telligence Agency and the Defense Mapping Agency, and in
18 carrying out that reduction, the Secretary shall allocate such
19 reduction (under the authority of the Secretary under subsec-
20 tion (d) of that section) so that none of such reduction is ap-
21 plied to personnel of the Defense Intelligence Agency or the
22 Defense Mapping Agency.

23 (2) For purposes of paragraph (1), the term "nonhead-
24 quarters personnel" means members of the Armed Forces
25 and civilian employees assigned or detailed to permanent

1 duty in the Defense Agencies and Department of Defense
2 Field Activities, other than members and employees assigned
3 or detailed to duty in management headquarters activities or
4 management headquarters support activities.

5 PERSONNEL CEILING ADJUSTMENTS

6 SEC. 103. The Director of Central Intelligence may au-
7 thorize employment of civilian personnel in excess of the
8 numbers authorized for fiscal year 1989 under sections 102
9 and 202 of this Act when he determines that such action is
10 necessary to the performance of important intelligence func-
11 tions, except that such number may not, for any element of
12 the Intelligence Community, exceed 2 per centum of the
13 number of civilian personnel authorized under such sections
14 for such element. The Director of Central Intelligence shall
15 promptly notify the Permanent Select Committee on Intelli-
16 gence of the House of Representatives and the Select Com-
17 mittee on Intelligence of the Senate whenever he exercises
18 the authority granted by this section.

19 RESTRICTION ON SUPPORT FOR MILITARY OR

20 PARAMILITARY OPERATIONS IN NICARAGUA

21 SEC. 104. Funds available to the Central Intelligence
22 Agency, the Department of Defense, or any other agency or
23 entity of the United States may be obligated and expended
24 during fiscal year 1989 to provide funds, materiel, or other
25 assistance to the Nicaraguan democratic resistance to support
26 military or paramilitary operations in Nicaragua only as au-

1 thorized in section 101 and as specified in the classified
2 Schedule of Authorizations referred to in section 102, or pur-
3 suant to section 502 of the National Security Act of 1947, or
4 pursuant to any provision of law specifically providing such
5 funds, materiel, or assistance.

6 TITLE II—INTELLIGENCE COMMUNITY STAFF

7 AUTHORIZATION OF APPROPRIATIONS

8 SEC. 201. There is authorized to be appropriated for the
9 Intelligence Community Staff for fiscal year 1989 the sum of
10 \$23,745,000.

11 AUTHORIZATION OF PERSONNEL END STRENGTH

12 SEC. 202. (a) The Intelligence Community Staff is au-
13 thorized 244 full-time personnel as of September 30, 1989.
14 Such personnel of the Intelligence Community Staff may be
15 permanent employees of the Intelligence Community Staff or
16 personnel detailed from other elements of the United States
17 Government.

18 (b) During fiscal year 1989, personnel of the Intelli-
19 gence Community Staff shall be selected so as to provide
20 appropriate representation from elements of the United
21 States Government engaged in intelligence and intelligence-
22 related activities.

23 (c) During fiscal year 1989, any officer or employee of
24 the United States or a member of the Armed Forces who is
25 detailed to the Intelligence Community Staff from another
26 element of the United States Government shall be detailed on

1 a reimbursable basis, except that any such officer, employee
2 or member may be detailed on a nonreimbursable basis for a
3 period of less than one year for the performance of temporary
4 functions as required by the Director of Central Intelligence.

5 INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN

6 SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

7 SEC. 203. During fiscal year 1989, activities and per-
8 sonnel of the Intelligence Community Staff shall be subject to
9 the provisions of the National Security Act of 1947 (50
10 U.S.C. 401 et seq.) and the Central Intelligence Agency Act
11 of 1949 (50 U.S.C. 403a et seq.) in the same manner as
12 activities and personnel of the Central Intelligence Agency.

13 TITLE III—CENTRAL INTELLIGENCE AGENCY

14 RETIREMENT AND DISABILITY SYSTEM

15 AUTHORIZATION OF APPROPRIATIONS

16 SEC. 301. There is authorized to be appropriated for the
17 Central Intelligence Agency Retirement and Disability Fund
18 for fiscal year 1989 the sum of \$144,500,000.

19 TITLE IV—GENERAL PROVISIONS

20 RESTRICTION OF CONDUCT OF INTELLIGENCE ACTIVITIES

21 SEC. 401. The authorization of appropriations by this
22 Act shall not be deemed to constitute authority for the con-
23 duct of any intelligence activity which is not otherwise au-
24 thorized by the Constitution or laws of the United States.

1 INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

2 SEC. 402. Appropriations authorized by this Act for
3 salary, pay, retirement, and other benefits for Federal em-
4 ployees may be increased by such additional or supplemental
5 amounts as may be necessary for increases in such benefits
6 authorized by law.

7 TITLE V—CENTRAL INTELLIGENCE AGENCY

8 ADMINISTRATIVE PROVISIONS

9 ONE-TIME PERSONNEL AUTHORITY

10 SEC. 501. (a) Whenever the Director of Central Intelli-
11 gence finds during fiscal year 1989 that a former employee of
12 the Central Intelligence Agency has unfairly had his career
13 with the Agency adversely affected as a result of allegations
14 concerning the loyalty to the United States of such former
15 employee, the Director may grant such former employee such
16 monetary or other relief (including reinstatement and promo-
17 tion) as the Director considers appropriate in the interest of
18 fairness.

19 (b) Any action of the Director under this section is not
20 reviewable in any other forum or in any court.

21 (c) The authority of the Director to make payments
22 under subsection (a) is effective only to the extent that appro-
23 priated funds are available for that purpose.

24 (d) The Director shall report to the Select Committee on
25 Intelligence of the Senate and the Permanent Select Com-

1 mittee on Intelligence of the House of Representatives any
2 use of the authority granted by this section in advance of
3 such use.

4 TITLE VI—FBI ENHANCED
5 COUNTERINTELLIGENCE AUTHORITIES

6 DEMONSTRATION PROJECT ON MOBILITY AND RETENTION
7 FOR THE NEW YORK FIELD DIVISION

8 SEC. 601. (a) Notwithstanding any other provision of
9 law, the Director of the Federal Bureau of Investigation and
10 the Director of the Office of Personnel Management shall
11 conduct a demonstration project to ascertain the effects on
12 the recruitment and retention of personnel, and on field oper-
13 ations in the New York Field Division of the Federal Bureau
14 of Investigation of providing—

15 (1) lump-sum payments to personnel upon directed
16 assignment to the New York Field Division from an-
17 other geographical location, and who enter into an
18 agreement to complete a specified minimum period of
19 service, not to exceed three years, in the New York
20 Field Division; and

21 (2) periodic payments to New York Field Division
22 employees who are subject by policy and practice to di-
23 rected geographical transfer or reassignment.

24 (b) Such demonstration project shall commence not later
25 than ninety days after the date of enactment of this Act and

1 shall terminate five years after such date, unless extended by
2 law.

3 (c) The Director of the Federal Bureau of Investigation
4 and the Director of the Office of Personnel Management shall
5 jointly provide to the President and the Congress annual in-
6 terim reports and, at the conclusion of the 5 year period, a
7 final evaluation concerning the results of the demonstration
8 project.

9 TITLE VII—DEPARTMENT OF DEFENSE

10 INTELLIGENCE PROVISIONS

11 SEC. 701. (a) Section 421 of title 10, United States
12 Code, is amended to read as follows:

13 "§ 421. Funds for foreign cryptologic support

14 "(a) The Secretary of Defense may use appropriated
15 funds available to the Department of Defense for intelligence
16 and communications purposes to pay for the expenses of ar-
17 rangements with foreign countries for cryptologic support.

18 "(b) The Secretary of Defense may use funds other than
19 appropriated funds to pay for the expenses of arrangements
20 with foreign countries for cryptologic support without regard
21 for the provisions of law relating to the expenditure of United
22 States Government funds, except that—

23 "(1) no such funds may be expended, in whole or
24 in part, by or for the benefit of the Department of the

1 Defense for a purpose for which Congress had previ-
2 ously denied funds, and

3 “(2) the authority provided by this subsection may
4 not be used to acquire items or services of value for
5 the United States that could otherwise be obtained by
6 the use of appropriated funds.

7 “(c) Any funds expended under the authority of this sec-
8 tion shall be reported to the Select Committee on Intelli-
9 gence of the Senate and the Permanent Select Committee on
10 Intelligence of the House pursuant to the provisions of title V
11 of the National Security Act of 1947, as amended.”.

12 (b) The reference to section 421 in the sections at the
13 beginning of chapter 21 of such title is amended to read
14 “Funds for Foreign Cryptologic Support”.

15 ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

16 SEC. 702. (a) Paragraph (3) of section 136(b) of title 10,
17 United States Code, is amended to read as follows:

18 “(3) One of the Assistant Secretaries shall be the Assist-
19 ant Secretary of Defense for Intelligence. He shall have as
20 his principal responsibility the overall supervision of intelli-
21 gence and intelligence-related activities (including intelli-
22 gence oversight, counterintelligence, covert action, prepara-
23 tion of threat assessments, and intelligence support for net
24 assessments) of the Department of Defense. Such responsibil-
25 ity includes authority for coordination of all policy, planning,
26 budgetary, and management matters within the Department

1 respecting such activities. The Assistant Secretary shall
2 report directly, without intervening review or approval, to
3 the Secretary and Deputy Secretary of Defense.”.

4 (b)(1) Section 136(a) of title 10, United States Code, is
5 amended by striking out “eleven” and inserting in lieu there-
6 of “twelve”.

7 (2) Section 5315 of title 5, United States Code, is
8 amended by striking out “(11)” after “Assistant Secretaries
9 of Defense” and inserting in lieu thereof “(12)”.

10 REQUIREMENTS TO DISCLOSE DEFENSE INTELLIGENCE

11 AGENCY ORGANIZATIONAL AND PERSONNEL INFOR-
12 MATION

13 SEC. 703. (a) Section 1607 of title 10, United States
14 Code (as added by section 603 of Public Law 100-178), is
15 transferred to the end of chapter 21, redesignated as section
16 424, and amended to read as follows:

17 “§ 424. Disclosure of organizational and personnel infor-
18 mation: exemption for Defense Intelligence
19 Agency

20 “(a) Except as required by the President or as
21 provided in subsection (b), the Secretary of Defense
22 may not be required to disclose information with re-
23 spect to—

24 “(1) the organization or any function of the De-
25 fense Intelligence Agency ; or

1 “(2) the number of persons employed by or as-
2 signed or detailed to such Agency or the name, official
3 title, occupational series, grade, or salary of any such
4 person.

5 “(b) This section does not apply—

6 “(1) with respect to the provision of information
7 to Congress; or

8 “(2) with respect to information required to be
9 disclosed by section 552 or 552a of title 5.”.

10 (b) The table of sections at the beginning of chapter 21
11 of such title is amended by adding at the end the following
12 new item:

“424. Disclosure of organizational and personnel information: exemption for Defense
Intelligence Agency.”.

○

Amendment

On page 8, after Section 402, add the following new section:

"Equal Employment Opportunity Plan

"Sec. 403. Ninety days after enactment of this Act, the Director of Central Intelligence and the Secretary of Defense shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report setting forth an analysis of each equal employment opportunity group's representation in the Central Intelligence Agency and the National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by September 30, 1991.

"(b) The Director of Central Intelligence and the Secretary of Defense shall each submit interim reports on February 1 of 1989, 1990, and 1991 concerning the Central Intelligence Agency and the National Security Agency respectively detailing the efforts made, and the progress realized, by each such agency in achieving the objectives of each such plan, including, but not limited to, the number of applications from, and the hiring, promotion, and training of, members of equal employment opportunity groups."

-2-

"(c) For purposes of this section, the term 'equal employment opportunity group' means--

"(A) white women,

"(B) black men,

"(C) black women,

"(D) Hispanic men,

"(E) Hispanic women,

"(F) Asian American and Pacific Islander men,

"(G) Asian American and Pacific Islander women,

"(H) Native American and Alaskan Native men, or

"(I) Native American and Alaskan Native women."